

REMARKS

To advance the prosecution to allowance, independent claims 1 and 26 have been canceled without prejudice. Independent claims 56, 57, 58 and 59 remain. Dependent claims 4, 5, 16-20, 27-34 and 67 have been canceled. New dependent claims 69-92 have been added to more fully describe the invention. All the remaining and new dependent claims depend directly or indirectly on independent claims 56, 57, 58 or 59.

In the pending final Office Action, claims 1, 2, 21, 23, 26, 27, 60-62 and 65-68 are rejected under 35 U.S.C. 102(b) over Taylor (US 4,588,629).

Claims 3, 4, 24, 25, 32 and 63 are rejected under 35 U.S.C. 103(a) over Taylor and Gillette (US 2003/0232170).

Claims 19, 20 and 58 are rejected under 35 U.S.C. 103(a) over Taylor and Makansi (US 5,882,770).

Claims 1, 4, 5, 16-18, 21, 22, 26-29, 31, 56 and 64 are rejected under 35 U.S.C. 103(a) over Ladeur (EP 0 547 533).

Claims 6, 7, 19, 20 and 63 are rejected under 35 U.S.C. 103(a) over Ladeur and Sissons (US 3,347,736).

Claims 33, 34 and 58 are rejected under 35 U.S.C. 103(a) over Ladeur and Murata et al (US 4,576,840).

Claims 8, 12 and 57 are rejected under 35 U.S.C. 103(a) over Ladeur and Zafiroglu et al (US 6,269,759).

Claims 9-11 and 13-15 are rejected under 35 U.S.C. 103(a) over Ladeur, Zafiroglu et al, and Murata et al.

Claim 30 is rejected under 35 U.S.C. 103(a) over Ladeur, Allison et al (US 2003/0099810).

Independent claim 1 is rejected as being anticipated by Taylor and being obvious over Ladeur. Since this claim has been canceled, these rejections are rendered moot. Independent claim 26 is rejected as being anticipated by Taylor and being obvious over Ladeur. Since claim 26 has been canceled, these rejections are rendered moot. Claims that previously depend on independent claims 1 and 26 have been either canceled, amended or re-written as new dependent claims to depend on the remaining independent claims, and are addressed below.

Independent claim 56 is rejected as being obvious over Ladeur, as stated in

paragraph 5.a on page 5 of the final Office Action. The Examiner admits that Ladeur does not teach that the adhesive layer penetrates the fibrous face layer, but surmises that this can be so, because “the nonwoven layer is needled into the back layers 6 and 7, which allows for the fibers to be at a depth below the adhesive layer 3.” The only section of Ladeur cited by the Examiner is the second paragraph of column 5 of Ladeur. Ladeur was published only in German and a translation was provided by the Examiner.

After a careful review of the English translation of Ladeur provided by the Examiner, Applicant firmly believes that this translation is inaccurate. The purported second paragraph of Column 5 of Ladeur, which appears on page 7 of this translation, vaguely states that:

In a first version, a non-woven fabric needled with woven textile 7 on the rough carpet with the help of glue 3 (e.g., polymer pastes) is brought in place of the other generally used back coating made of SB latex. The pinned woven textile is meant to provide the required longitudinal and transverse solidity in the first place and a woven textile-like 6 appearance in the second place.

Applicant notes that this paragraph uses the reference numbers “7,” “3” and “6” in that order. A quick review of column 5 of the German version of Ladeur definitively shows that the only paragraph in column 5 with these reference numbers in that order is the fourth paragraph. The second and third paragraphs of the original German version were omitted the translation provided by the Examiner, and the first paragraph in column 5, *i.e.*, the carry-over paragraph, is significantly shorter than the one in the original German version. This evidence clearly indicates that the translation used by the Examiner is inaccurate and should not be used.

To clarify this matter, Applicant has obtained an independent translation from Mr. Stewart Colten, M.Ch.E, J.D., (hereinafter Colten translation and attached herewith as Exhibit A). The Examiner is invited to review the Colten translation in its entirety, and the passage referred by the Examiner in the Office Action is reproduced below:

In the first variant, instead of the customary backing layer comprised of SB latex (styrene-butadiene), one has [the backing layer comprised of] a nonwoven fabric [6] which itself has sewn to it a fabric [backing layer] 7, wherewith the nonwoven fabric is fixed to the basic carpet material [1] by means of an adhesive mass 3 (e.g. a polymeric adhesive mass

comprised of one or more polymers). It is intended that the sewn-on [bottom backing layer] fabric [7] will provide the nonwoven fabric 6 with the necessary longitudinal and transverse strength, and will confer [upon the back of the composite material] the appearance of a [customary] fabric.

(See page 8 of the Colten translation.) This portion deals with the sewing (or “needling”) of the nonwoven fabric 6 to the bottom backing fabric backing 7. This portion does not discuss or deal with the fibrous face layer 1, as believed by the Examiner. The rest of the Colten translation indicates that the Ladeur reference’s main focus is replacing the conventional foam backing, which is difficult to recycle and causes environmental pollution and allergic reactions (see Colten translation at page 3), with a composite comprising a non-woven fabric set in a woven or knitted structure (see *Id.* at pages 4-5). Most of Ladeur actually discusses the structures of the composite backing layer (6&7). The base fabric (1) and piles (2) are merely attached to the backing layer (6&7) by adhesive 3.

Applicant notes that independent claim 56 does not recite a backing layer. A backing layer is first recited in dependent claim 21, which depends directly on claim 56.

Nothing in Ladeur discloses or suggests that legs from the fibrous face layer being anchored in or being at a depth below the adhesive layer, as believed by the Examiner, or that the adhesive layer partially penetrates into the fibrous face layer. Hence, claim 56 is patentable over Ladeur.

To move this case to allowance, claim 56 has been further amended to recite, among other things, that the adhesive layer is a solid adhesive film or fabric and that some of the legs are needle-punched through the fibrous layer and through the solid adhesive film. Support can be found in paragraph [0060] and in FIG. 10, *inter alia*, of the published version of the present application (US 2005/0003141 A1).

Applicant directs the Examiner’s attention to EP 1 026 311 listed in an IDS submitted herewith. EP ‘311 and EP 1 026 195 were recently uncovered by the inventor. EP ‘311 discloses an aqueous binder being applied to a felt made by needle-punching. This structure is heated to evaporate the water and to form a flexible layer to strengthen the felt. See EP ‘311, columns [0002], [0010] and [0011] and FIG. 1. EP ‘311 does not disclose legs penetrating the fibrous layer and a solid adhesive film. Hence, independent claim 56 as amended is patentable over EP ‘311.

Independent claim 57 is rejected as being obvious over a combination of Ladeur and

Zafiroglu '759. Claim 57 has been amended to recite, among other things, that the fibrous face layer comprises a gathered fabric forming a plurality of legs, and these legs comprise upwardly facing folds or undulated gathers from the gathered fabric. Support for this amendment can be found in FIGS. 14-15 and 18-19, and in paragraph [0062] and [0065], *inter alia*, of the published version of the present application. Ladeur, discussed above in detail, does not disclose the upward facing folds or undulated gathers of a gathered fabric being anchored in an adhesive layer.

Applicant notes that claim 57 is limited to a “gathered” fabric, *i.e.*, a shrunken fabric. Zafiroglu '759 is a stitch-bonded structure, but it is not a gathered structure. The composite in Zafiroglu is not shrunken or gathered. Hence, even a hypothetical combination of Ladeur and Zafiroglu '759 does not have all the limitations of amended claim 57 and claim 57 is patentable over Ladeur and Zafiroglu '759.

Independent claim 58 is rejected as being obvious over a combination of Ladeur and Murata. The Examiner states that Murata discloses woven and knitted fabrics. Claim 58 recites, among other things, that the fibrous face layer comprises a knit or woven fabric forming a plurality of legs. To advance this case to allowance, claim 58 has been amended to further recite that the legs are formed by the pile loops of the knit or woven fabric in the orientation of having the pile loops facing downward. Support for this limitation can be found paragraph [0053] and more specifically in paragraph [0071], where the specification states that “pile side 58 of face layer 12 is sufficiently long to provide for adequate embedding of adhesive layer into face layer 12 to stabilize face layer 12”. Examples 8 and 8A clearly show the results of anchoring the pile side of a knit to the adhesive layer versus of anchoring the opposite side into the adhesive layer.

The deficiencies of Ladeur are well documented above. Neither Ladeur nor Murata, singly or in combination, discloses legs formed by pile loops of a knit or woven fabric. Hence, claim 58 is patentable over Ladeur and Murata.

Independent claim 58 is also rejected as being obvious over a combination of Taylor and Makansi. The Examiner states that Makansi discloses that woven and knit can be used as the fibrous outer layer.

First, a hypothetical combination of Taylor and Makansi does not meet all the limitations of claim 58, and therefore cannot support the rejection. Claim 58 was further amended to recite that the legs are formed from pile loops of the knit or woven fabric. This

feature is not disclosed in Taylor or Makansi. For these reasons, claim 58 is patentable over this combination.

Further, Taylor and Makansi teach away from each other. Makansi teaches the embossing of a single fibrous sheet (10) without any adhesive. Taylor teaches embossing chopped fibers by pressing them into the adhesive substrate below. Makansi teaches against interlocking or bonding the fibers in fibrous sheet (10) (col. 4, lines 23-26, col. 5, lines 51-58). Taylor teaches bonding the fibers to the adhesive throughout that reference. For this additional reason, claim 58 is patentable over this hypothetical combination.

Claim 58 is further amended to remove the reference that the knit or woven fabric is made from textured yarns. Claim 58 along with claims 56, 57 and 59 was added in the Amendment dated June 28, 2005, and the Examiner had indicated that no new matter was added in paragraph 1 of the Office Action dated September 28, 2005. However, Applicant now believes that the reference to textured yarns in claim 58 is not as clearly supported by the specification. In an abundance of caution, claim 58 is amended to remove the recitation to textured yarns.

Applicant notes that the rationale supporting the Examiner's rejection of independent claim 59 was not discussed in the pending Office Action. Since claim 59 recites a brushed woven and the rejections of claim 58, discussed above, also discuss woven in addition to knit, Applicant presumes that the Examiner's rationales for rejecting independent claim 58 also apply to independent claim 59.

Independent claim 59 recites, among other things, that the fibrous face layer comprises a brushed woven or knit forming a plurality of legs. To advance this case to allowance, claim 59 has been amended to recite that the woven can also be cut, sanded or sheared in addition to being brushed, and that the legs are formed from these cut, sanded, sheared or brushed portions of the fibrous outer layer. Support for this amendment can be found in paragraph [0074] and FIGS. 29-30 of the published version of the present application.

With respect to a possible rejection over Ladeur and Murata, the deficiencies of Ladeur are documented above and Murata cannot remedy these deficiencies. Neither Ladeur nor Murata, singly or in combination, disclose anchored legs made from the cut, sanded, sheared or brushed portions of the woven fabric. The advantages of having cut, sanded, sheared or brushed knit or woven are shown in Examples 9 and 10 in the

specification. Hence, claim 59 is patentable over Ladeur and Murata.

With respect to a possible rejection over Taylor and Makansi, a hypothetical combination of Taylor and Makansi does not meet all the limitations of claim 59, and therefore cannot support the rejection. Taylor does not discuss a woven fabric, as admitted by the Examiner, and Makansi does not disclose anchored legs made from the cut, sanded, sheared or brushed portions of the woven fabric, as claimed in claim 59. For this reason alone, claim 59 is patentable over this combination. Additionally, Taylor and Makansi teach away from each other, as discussed above in connection with claim 58.

All the other rejected claims are dependent claims, which depend directly or indirectly on patentable independent claims 56, 57, 58 or 59. More specifically, claims 2, 3, 6, 7, 21-25, 61 and 63-65 depend on independent claim 56; claims 8-15, 60, 62 and 71-77 depend on independent claim 57; claims 18, 66, 68 and 78-85 depend on independent claim 58; and claims 20, 69-70 and 86-92 depend on independent claim 59. Hence, these claims are also presently patentable. Applicant reserves the right to further support their patentability should that become necessary. As stated above, claims 69-92 are new.

Support for the new dependent claims is summarized as follows:

<u>New Dependent Claims</u>	<u>Support</u> (Reference to the published version of the present patent application)
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69-70	[0050], [0053], [0066], [0067], [0070], [0072], [0075], etc.
71, 79, 86	original claim 2
72, 80, 87	original claim 3
73, 81, 88	original claim 21
74, 82, 89	original claim 23
75, 83, 90	[0054]
76, 84, 91	original claim 28, [0047]
77, 85, 92	[0047], [0057]
78	[0073], FIGS. 27-28

No new matter has been added.

Applicant asserts that all claims are now in condition for allowance, early notice of which is respectfully requested. No fees are believed due for the submission of this amendment. A three-month extension fee and a fee for filing a RCE are required and payment is submitted herewith. Should any additional fees in fact be due, please charge such fees to Deposit Account No. 50-1980.

Respectfully submitted,

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Enclosure:

Colten translation of Ladeur EP 547 533